

OPINION
56-147

November 30, 1956 (OPINION)

RECORDS

RE: Banks - Microfilming

We have received your request for an opinion in regard to microfilming or photostating records of private institutions such as banks.

Counties are permitted to microfilm records. See section 11-1019 of the 1953 Supplement to the N.D.R.C. of 1943. State departments may under certain circumstances destroy records after fifteen years. See section 46-0420 of the 1953 Supplement.

Section 31-08011 of the 1953 Supplement is the statute applicable to your case and reads as follows:

"PHOTOGRAPHIC COPIES OF BUSINESS AND PUBLIC RECORDS ADMISSIBLE IN EVIDENCE. If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original."

You will note that this law is applicable to any business, institution, profession, or department or agency of government. It provides that photographs, photostats and microfilms or original documents are admissible in evidence, whether such original is in existence or not, unless some other law requires the original to be preserved.

It is our opinion that a private institution, such as a bank, may photostat or microfilm original records and then destroy the original

except if some other law requires the preservation of a particular document.

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